HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 25582 of 2007

Dated 6th December, 2007

Between

P.Satish Reddy

…Petitioner

and

The Commissioner, prohibition & Excise,
Nampally, Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 25582 of 2007

ORDER:

In this Writ Petition, the petitioner seeks Writ of Mandamus to declare the proceedings of the first respondent in No.Cr.No.9938/2007/CPE/G3, dated 7-11-2007 as illegal and arbitrary.

On the application of the fourth respondent, for grant of prior clearance, to seek licence to establish Bar & Restaurant at Kazipet, impugned order dated 7-11-2007 is passed by the first respondent granting prior clearance to him. The petitioner, who is an existing licencee to run Bar & Restaurant nearby the proposed premises for the licence year 2007, has questioned impugned order on the ground that the said order is passed by the first respondent without ascertaining the requirement and other factors as required under Rule

5 of the Andhra Pradesh Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005, framed under the AP Excise Act 1968.

On instructions, it is submitted by the learned Government Pleader appearing for the respondents that in the previous licensing year, there were 10 licencees to run Bar and Restaurants in Kazipet and on considering the objections filed by the petitioner, a report was sent by the excise officials and based on the same, impugned order is passed.

For issuance of licence to run a Bar and Restaurant or to vend liquor in retail, a prior clearance is required. As per Rule 5 of the said Rules, on filing an application in Form 1-A, the Commissioner, after causing enquiry, having due regard to requirement and other factors, as he deems fit, is empowered to grant prior clearance in Form.2-A. The requirement as contemplated in Rule 5(ii) of the said Rules is required to be assessed by the concerned authority empowered under the Rules. The petitioner, who is an existing licencee cannot say that there is no requirement. More so, when it is stated by the learned Government Pleader that earlier there were 10 Bar and Restaurants and currently there are only eight Bar and Restaurants in the town of Kazipet. In absence of any prohibition for grant of such licence, as per the Rules, the petitioner cannot question the validity of the impugned order at this stage on the ground that there is no requirement. It is for the competent authority, who is empowered under the Rules to assess the requirement for grant of prior clearance. In that view of the matter, I do not find any illegality in the impugned order.

The Writ Petition is devoid of merits and is dismissed at the

admission stage. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 6-12-2007.
Msnr.